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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM STEWART NEELY,

Petitioner,

No. CIV S-08-1416 KJM P

vs.

DIRECTOR, CALIFORNIA
DEPARTMENT OF CORRECTIONS,
et al.,

Respondents.

ORDER

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner has paid the filing fee.

Since petitioner may be entitled to the requested relief if the claimed violation of constitutional rights is proved, respondents will be directed to file a response to petitioner’s application.

Petitioner has also filed a motion for discovery. As respondent has not yet appeared in the action, this motion is premature.

Finally, petitioner has filed a document which he calls an amendment to ground one of his habeas petition. Local Rule 15-220 requires that an amended pleading be complete in itself without reference to any prior pleading. This is because, as a general rule, an amended

1 pleading supersedes the original complaint. See Loux v. Rhay, 375 F.2d 55, 57 (9th Cir. 1967).
2 Because this attempt to amend the petition does not comply with the local rules and is not
3 complete in itself, the court will take no action on it.

4 In accordance with the above, IT IS HEREBY ORDERED that:

5 1. Respondents are directed to file a response to petitioner's application within
6 sixty days from the date of this order. See Rule 4, Fed. R. Governing § 2254 Cases. An answer
7 shall be accompanied by any and all transcripts or other documents relevant to the determination
8 of the issues presented in the application. See Rule 5, Fed. R. Governing § 2254 Cases;

9 2. Petitioner's reply, if any, shall be filed and served within thirty days of service
10 of an answer;

11 3. If the response to petitioner's application is a motion, petitioner's opposition
12 or statement of non-opposition shall be filed and served within thirty days of service of the
13 motion, and respondents' reply, if any, shall be filed within fifteen days thereafter;

14 4. The Clerk of the Court shall serve a copy of this order together with a copy of
15 petitioner's application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 on Michael
16 Patrick Farrell, Senior Assistant Attorney General;

17 5. Petitioner's motion for discovery (docket no. 4) is denied without prejudice.
18 If petitioner wishes to renew the motion after respondents have appeared in the case, he need not
19 file the entire motion again, but rather may file a single page motion, adopting the points and
20 authorities and exhibits already on file; and

21 6. Petitioner's amendment to the petition (docket no. 6) is disregarded.

22 DATED: January 9, 2009.

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U.S. MAGISTRATE JUDGE

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